

REMARKS

In accordance with the foregoing, claims 1, 7, and 22 have been amended. Claims 1-22 are pending and under consideration.

Entry of Amendment Under 37 C.F.R. §1.116:

The Applicant requests entry of this Rule 116 Response because: the amendments were not earlier presented because the Applicant believed in good faith that the cited prior art did not disclose the present invention as previously claimed; the amendment of claims 1, 7, and 22 should not entail any further search by the Examiner since no new features are being added or no new issues are being raised; and the amendment does not significantly alter the scope of the claim and places the application at least into a better form for purposes of appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures sets forth in Section 714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, Section 714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

REJECTION UNDER 35 U.S.C. §103:

Claims 1-22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hedenberg (U.S. Patent 5,947,009) in view of Miller (U.S. Patent No. 4,523,407).

Amended independent claim 1 recites, "...a plurality of profiles combined in the profile groove of the baking tray, the profile groove of the baking tray having a plurality of breakaway-prevention protrusions formed at edges thereof to prevent the plurality of profiles from breaking away from the profile groove."

Amended independent claim 7 recites, "...a plurality of profiles combined in the profile groove of the baking tray such that the plurality of protrusions prevents the plurality of profiles from breaking away from the profile groove."

Amended independent claim 22 recites, "...a plurality of profiles formed in the first and second profile groove portions; and a plurality of breakaway-prevention protrusions that are incorporated with the stationary and rotatable trays wherein the breakaway-prevention protrusions secure a partial outer surface of the profiles."

The Examiner acknowledged that Hedenberg does not teach or suggest a profile groove with protrusions. On page 2 of the Office Action, the Examiner asserts that Miller makes up for the deficiencies of Hedenberg. The teachings of Miller are directed to a non-analogous art because Miller describes a cover for a deck hatch or manhole. Miller's invention is not directed to a bread maker. The Examiner has failed to provide evidence that the motivation to combine Hedenberg and Miller in the manner suggested by the Examiner exists in the prior art or in the knowledge generally available to one of ordinary skill in the art, and thus, that the Examiner has not provided sufficient evidence to maintain a prima facie obviousness rejection of the claims.

On page 2, the Examiner asserts "it would have been obvious to one skilled in the art to provide the profile groove of Hendenberg with the flanges taught in Miller, in order to help retain the profile within the profile groove." Miller describes "confronting flanges 19 to retain a cylindrical gasket 20" (col. 2, lines 1-3). The present invention is directed to a plurality of profiles combined in the profile grooves with a plurality of breakaway-prevention protrusions that prevent the plurality of profiles from breaking away from the groove. Miller is directed to a single gasket 20. Miller does not teach or suggest gaskets as part of a profile groove. Miller does not teach or suggest breakaway-prevention protrusions to prevent the profiles from breaking away from the profile groove.

Additionally, the statements made by the Examiner amount to no more than conclusory statements of generalized advantages and convenient assumptions about skilled artisans. Such conclusory statements and assumptions are inadequate to support a finding of motivation, which is a factual question that cannot be resolved on subjective belief and unknown authority. On page 3, the Examiner asserts "in response to Applicant's argument that the teaching of Miller is non-analogous art, it has been held that a prior art reference must either be in the field of Applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the Applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention (*In re Oetiker*, 977 F.2d 1443 (Fed. Cir. 1992))." As stated above, Miller is not in the same field as the present invention. An aspect of the present invention is to secure the plurality of profiles in the profile groove. In contrast, Miller describes forcing the gasket 20 away from the groove 14 onto the deck ring flange 13 by pressing down on the cover plate 10 (col. 2, lines 13-25; fig. 2, 4, and 5).

The Examiner asserts that the alleged teaching of Miller relates to retaining the profile within the profile groove. The alleged teachings of Miller are not logically connected with the present invention because the present invention is directed to a plurality of profiles with breakaway-prevention protrusions to prevent the profiles from breaking away from the profile groove. In contrast, Miller describes "open spaces between gasket 20 and the confining surfaces

of groove 14 permit distortion of the gasket sufficiently to allow the lower edges of flanges 15 and 16 to seat directly on support ring flange 13 under a **heavy load** on the cover plate" (*emphasis added*, col. 2, lines 15-20). Miller shows a confronting flange 19 that may stabilize the gasket 20, but does not prevent the gasket 20 from detaching from the tray. Miller describes that the gasket 20 is lodged out of the groove 14 when heavy force is exerted on cover plate 10. Thus, Miller's gasket 20 is immobile due to the pressure of a heavy load, not due to the confronting flanges 19. Miller does not teach or suggest a plurality of profiles combined in the profile groove of the baking tray that are secured with a plurality of breakaway-prevention protrusions. Therefore, the Examiner has not provided sufficient evidence to maintain a prima facie obviousness rejection of the claims.

As such, the Applicant respectfully submits that the combination does not disclose or suggest the invention as recited in claims 1-22, and that there is insufficient evidence of a motivation that existed in the prior art and which would have motivated one of ordinary skill in the art to make the combination in the manner set forth in the Office Action.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: Apr. 12 2006

By: Mark J. Henry
Mark J. Henry
Registration No. 36,162

1201 New York Avenue, NW, 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501